

**BEFORE THE ARKANSAS STATE BOARD OF EDUCATION**

On August 14, 2014, during a regular meeting of the Arkansas State Board of Education, a hearing was conducted regarding the appeal of the Walker family (“Petitioner”) challenging the decision of the Mountain Pine School District (“Respondent”) denying their school choice applications.

**FINDINGS OF FACT**

1. The Petitioner family resides in the Lake Hamilton School District.<sup>1</sup>
2. On or about June 3, 2014, and again, on or about June 23, 2014, Petitioner submitted school choice applications to transfer three (3) children to Respondent Mountain Pine School District pursuant to the Arkansas Public School Choice Act of 1989.<sup>2</sup> According to the applications filed by the Petitioner, the Petitioner family is African-American.
3. On or about July 2, 2014 Respondent denied the applications because the requested transfers would violate the Arkansas Public School Choice Act of 1989 and the desegregation order that currently governs school choice transfers between and among public school districts in Garland County.

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<sup>1</sup> While the Petitioner family disagrees that it resides in the Lake Hamilton School District, Arkansas Department of Education staff confirmed with the Garland County Assessor’s Office on August 14, 2014 that according to records on file with the Garland County Assessor’s Office, the Petitioner family, in fact, resides in the Lake Hamilton School District.

<sup>2</sup> The current Garland County desegregation order in the case of *Davis et al., v. Hot Springs School District, et al.*, Case No. 6:89-cv-06088, as clarified by D.E. # 168 on June 10, 2013, requires school choice transfers in Garland County to be conducted in accordance with the provisions of the Arkansas Public School Choice Act of 1989. The State Board of Education remains a party to the *Davis* case and may hear school choice appeals from Garland County pursuant to Ark. Code Ann. § 6-18-206 (repealed).

4. On or about July 7, 2014, the Petitioner appealed Respondent's denial to the Arkansas Department of Education.

5. The Mountain Pine School District and the Lake Hamilton School District are located in Garland County, Arkansas.

6. The Arkansas Public School Choice Act of 1989 prohibits a student from transferring to a nonresident district where the percentage of enrollment for the student's race exceeds that percentage in the student's resident district, with limited exceptions. Ark. Code Ann. § 6-18-206(f)(1) (repealed). The first exception applies when the transfer is between two school districts within the same county and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and nonresident district remain within an acceptable range as calculated by the Arkansas Department of Education. Ark. Code Ann. § 6-18-206(f)(2)(A) (repealed). The second exception applies if each school district affected by the proposed transfer does not have a critical mass of minority percentage in the student's race of more than 10%. Ark. Code Ann. § 6-18-206(f)(3) (repealed). The third exception applies if the provisions of Ark. Code Ann. § 6-18-206 would violate a desegregation order or plan. Ark. Code Ann. § 6-18-206(f)(4) (repealed).

7. The nonresident Mountain Pine School District has an African-American population of 10.19%. The resident Lake Hamilton School District has an African-American population of 2.04%.

8. The acceptable range for African-American students in Garland County school districts as calculated by the Arkansas Department of Education is 11.14% - 14.33%.

## CONCLUSIONS OF LAW

9. School districts in Garland County, Arkansas remain subject to a desegregation order in the case of *Davis et al., v. Hot Springs School District, et al.*, Case No. 6:89-cv-06088.

10. A federal court order entered in the *Davis* case on June 10, 2013 requires school choice transfers in Garland County to be conducted in accordance with the provisions of the Arkansas Public School Choice Act of 1989. (*Davis et al., v. Hot Springs School District, et al.*, D.E. #168).

11. Ark. Code Ann. § 6-18-206(f)(1) (repealed) states that “[n]o student may transfer to a nonresident district where the percentage of enrollment for the student’s race exceeds that percentage in the student’s resident district except in the circumstances set forth in subdivisions (f)(2) and (3) of this section.” Because the resident Lake Hamilton School District has an African-American population of 2.04% and the nonresident Mountain Pine School District has an African-American population of 10.19%, the proposed transfers do not meet the requirements of Ark. Code Ann. § 6-18-206(f)(1).

12. Similarly, the proposed transfers do not meet the circumstances set forth in Ark. Code Ann. § 6-18-206(f)(2) and (3) (repealed). Neither the Lake Hamilton nor Mountain Pine school districts’ percentages of African-American students fall within the acceptable range for African-American students in Garland County. Moreover, the Mountain Pine School District has a critical mass of African-American students above ten percent (10%).

**ORDER**

13. The Petitioner's school choice appeal is hereby denied.

Signed this 27<sup>th</sup> day of August, 2014

  
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Sam Ledbetter, Chair  
Arkansas State Board of Education